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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KATHLEEN ESPINOSA, individually and as
personal representative of the Estate of decedent
ASA SULLIVAN; A.S., by and through his
Guardian ad Litem, NICOLE GUERRA;

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation; HEATHER FONG, in
her capacity as Chief of Police for the CITY
AND COUNTY OF SAN FRANCISCO; JOHN
KEESOR, individually, and in his capacity as a
police officer for the CITY AND COUNTY OF
SAN FRANCISCO; MICHELLE ALVIS,
individually and in her capacity as a police
officer for the CITY AND COUNTY OF SAN
FRANCISCO; PAUL MORGADO, individually
and in his capacity as a police officer for the
CITY AND COUNTY OF SAN FRANCISCO;
and, San Francisco police officers DOES 1-25,
inclusive,

Defendants.

Case No. C 06 04686 JSW

**STIPULATION AND ~~(PROPOSED)~~ ORDER
CONTINUING TRIAL DATE AND PRE-
TRIAL DATES**

ALL PARTIES to this action hereby stipulate and agree, by and through their respective
counsel, as follows:

1 1. Due to the timing of Plaintiffs' and Defendants' trial obligations in other cases, as well
 2 as timing issues beyond the control of the parties regarding the availability of certain discoverable
 3 materials, which are explained in detail below, the parties to this matter are hereby jointly requesting
 4 a brief extension of the trial date and various cut-off dates in this matter.

5 2. The current pre-trial order, a copy of which is attached as Exhibit A, provides for a
 6 June 2, 2008 trial date as well as the following pre-trial deadlines:

7 Close of Non-Expert Discovery	1/8/08
8 Last Day For Expert Discovery	3/10/08
9 Last Day To Hear Dispositive Motions	3/14/08
10 Pretrial Conference	5/12/08, 2 p.m.
11 Trial	6/2/08

12 The current pre-trial order does not include a date for expert disclosures.

13 3. Both attorneys for Defendants have recently been involved in two separate lengthy
 14 federal trials that have just concluded, which prevented the parties from conducting any significant
 15 discovery during the months of August and September. During the preceding months, and in
 16 October 2007, the parties have, however, issued written discovery and taken the depositions of many
 17 of the witnesses in this matter. The depositions of individual parties have not yet been taken. In
 18 addition, certain discovery has just become available which the parties would like to have time to
 19 evaluate before concluding the final discovery in this matter. Specifically, the defendants have
 20 recently become aware that the Office of Citizen Complaints ("OCC") the Management Control
 21 Division of the San Francisco Police Department ("MCD") have completed their investigations of
 22 this matter, and therefore the Defendants have no further objection to disclosing certain materials
 23 from these files to the Plaintiffs, subject to the Protective Order already endorsed by the Court.¹
 24 Defendants are in the process of copying the discoverable documents from these files and producing
 25

26 ¹ Defendants have taken the position that producing the contents of an on-going investigation would potentially
 27 compromise that investigation. Plaintiffs only became aware of the MCD investigation and some of its contents at the
 28 deposition of one of the witness police officers, taken on October 25, 2007.

1 them to Plaintiffs. Plaintiffs, who have not yet taken the depositions of the defendant officers, require
2 some time to review the material from these investigations before deposing the defendant officers.
3 Plaintiffs' counsel currently has a trial scheduled for November 26th, which will make it difficult for
4 Plaintiffs to review this material and depose the officers during the month of November and early
5 December. In addition, depending on the nature of the material produced, Plaintiffs may need to
6 issue additional discovery requests.

7
8 4. The parties have resolved their earlier discovery disputes through the specific meet-
9 and-confer process required by the Court's order without requiring submission of a joint letter to the
10 Court. The parties do not know whether the same will be true of potential disputes arising out of the
11 remaining materials to be disclosed to Plaintiffs.

12 5. The parties agree that the short time frame between the anticipated taking of
13 depositions of the defendant officers, the close of non-expert discovery, and the filing time
14 requirements to hear dispositive motions necessitate a continuance of the pre-trial and trial dates.

15 6. In addition to the foregoing, Plaintiffs' counsel are set for trial in another wrongful-
16 death matter on the same trial date as the instant-matter, June 2, 2008, in *Kim v. County of Alameda*,
17 *et al.* Northern District Case No. C 07 01281 WHA.

18
19 7. Notwithstanding the *Kim* trial, good cause for the requested continuance is based upon
20 the tight schedule for remaining discovery, which is a result of all counsel's other trial obligations as
21 well as a matter beyond the control of the parties – the late availability of other investigative files
22 regarding the subject incident in this case. In addition, because the original Pretrial Order did not
23 include expert disclosure dates, an additional Pretrial Order is needed to set those dates.

24 8. Counsel for the parties have conferred extensively, and request that the previously set
25 pre-trial and trial dates in this matter be vacated, and that the Court continue the trial date to a time of
26 the Court's convenience, not sooner than September 15, 2008, with pre-trial dates for the close of
27 non-expert discovery, expert discovery, and dispositive motions adjusted consistent with the
28 requested continued trial dates. The parties jointly propose the following dates:

1 Close of Non-Expert Discovery 4/4/08
2 Expert Disclosures 5/2/08
3 Last Day For Expert Discovery 6/13/08
4 Last Day To Hear Dispositive Motions 6/20/08
5 Pretrial Conference (Three to four weeks prior to trial)
6 Trial (est. 3 weeks) (On or after September 15, 2008)
7 IT IS SO STIPULATED.
8

9 Dated: November 1, 2007

The Law Offices of John L. Burris

11 /s/ John L. Burris

12 John L. Burris
13 Attorney for Plaintiff

14 Dated: November 1, 2007

15 DENNIS J. HERRERA
16 City Attorney
17 JOANNE HOEPER
18 Chief Trial Attorney
19 BLAKE P. LOEBS
20 Chief of Civil Rights Litigation
21 PETER J. KEITH
22 Deputy City Attorney

23 By //s/ Blake P. Loebs

24 BLAKE P. LOEBS
25 Attorneys for Defendants
26 CITY AND COUNTY OF SAN FRANCISCO,
27 HEATHER FONG, in her official capacity,
28 JOHN KESSOR, MICHELLE ALVIS and
PAUL MORGADO

(~~PROPOSED~~) ORDER

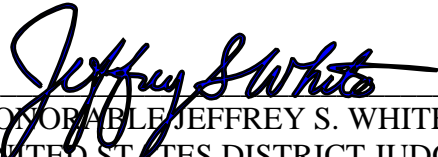
Good cause appearing, the Court hereby orders that the dates listed in Part A of the Court's Pretrial Order issued on January 1, 2007, be amended as follows:

Close of Non-Expert Discovery	4/4/08
Expert Disclosures	5/2/08
Last Day For Expert Discovery	6/13/08
Last Day To Hear Dispositive Motions	6/20/08 July 25, 2008
Pretrial Conference	<u>October</u> 6, 2008 at 2:00 p.m.
Trial (est. 3 weeks)	<u>October</u> 27, 2008 at 8:30 a.m.

PURSUANT TO STIPULATION,

IT IS SO ORDERED.

Dated: November 5, 2007


HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE